

Introduced by Senator Yee

February 20, 2014

An act to add Section 6347 to the Family Code, relating to protective orders.

LEGISLATIVE COUNSEL'S DIGEST

SB 1158, as introduced, Yee. Protective orders: assets and accounts.

Existing law authorizes a court to issue an ex parte protective order enjoining a party from engaging in specified acts against another party, including, among other things, threatening or harassing that party, and, in the discretion of the court, against other named family or household members. Existing law also authorizes a court to issue these protective orders and other orders relating to domestic violence prevention after a notice and hearing, including, among others, requiring a restrained party to participate in a batterer's program. A violation of these court orders constitutes contempt of court, which is punishable as a misdemeanor.

This bill would require a court, when issuing these protective orders, to consider the need to transfer ownership or possession of an asset or account that may be used to locate or track the person protected by the order if the asset or account is owned or jointly owned by the person restrained by the order. The bill would define "asset or account" for these purposes to include, among other things, mobile telephones, mobile telephone numbers, and global-positioning-system-enabled vehicles. The bill would authorize the court to order a service provider to transfer ownership or possession of an account or asset without the consent of the person restrained by the order. The bill would state findings and declarations by the Legislature in this regard.

Because a violation of this court order would be punishable as a contempt, a misdemeanor, the bill would create a new crime and, therefore, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares both of the
2 following:

3 (a) Allowing victims of domestic violence to retain use of an
4 existing telephone number, mobile device, or vehicle may be
5 important for both the safety and emotional support of the victim.

6 (b) A victim of domestic violence fleeing a dangerous
7 environment may not be able to safely retain use of a mobile
8 telephone or vehicle when the perpetrator must consent to a transfer
9 of ownership or control of those items.

10 SEC. 2. Section 6347 is added to the Family Code, to read:

11 6347. (a) A court issuing an order pursuant to this article shall
12 consider the need to transfer ownership or possession of an asset
13 or account that may be used to locate or track the person protected
14 by the order if the asset or account is owned or jointly owned by
15 the person restrained by the order. The order may include direction
16 to a service provider to transfer ownership or possession of an
17 account or asset without the consent of the person restrained by
18 the order.

19 (b) As used in this section, “asset or account” includes, but is
20 not limited to, mobile telephones and mobile telephone numbers,
21 global-positioning-system-enabled vehicles, and any other device
22 that can transmit or provide location information.

23 SEC. 3. No reimbursement is required by this act pursuant to
24 Section 6 of Article XIII B of the California Constitution because
25 the only costs that may be incurred by a local agency or school
26 district will be incurred because this act creates a new crime or
27 infraction, eliminates a crime or infraction, or changes the penalty

1 for a crime or infraction, within the meaning of Section 17556 of
2 the Government Code, or changes the definition of a crime within
3 the meaning of Section 6 of Article XIII B of the California
4 Constitution.

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